



Snohomish County Council

Committee: Finance, Budget, and Administration
ECAF: 2023-0636
Motion: 23-238

Analyst: Nicole Gorle
Date: June 8, 2023

Consideration:

Approve a contract with the Administrative Office of the Courts that would provide the County with funding specific costs incurred relating to the Blake decision.

Background:

In 2021 the Washington State Supreme Court issued an opinion in [State v. Blake, Cause No. 96873-0](#) that stated the Washington State simple possession of a controlled substance statute violated the due process clause of the state and federal constitution. Under the pre-2021 version of RCW 69.50.4013, simple possession was a class C felony¹ unless obtained through a valid prescription.

The statute that was found to be unconstitutional went back to 1971, meaning all individuals convicted under this statute dating back to 1971 are eligible for reimbursement on the legal financial obligations they paid and the Administrative Office of the Courts (AOC) estimates roughly tens of thousands of re-sentencing hearings as a result of this decision.²

On October 27, 2021 Council approved the first [contract](#) with the Administrative Office of the Courts. This contract provided the county with \$5,346,801 for resentencing costs and legal financial obligations associated with the Blake decision and expired June 30, 2022. As authorized under the contract and motion, the Executive extend the contract to June 30, 2023.³

Current Proposal:

Scope: Approve agreement IAA24032 with the Administrative Office of the Courts for them to reimburse the County for judicial, prosecutorial, and defense costs of resentencing and vacating convictions under the law overturned by the Blake decision, and for repayment of legal financial obligations.

Duration: July 1, 2023 through June 30, 2024

Fiscal Impact: The County will be eligible for up to \$2,631,056 of reimbursements for allowable expenses.

There is an associated appropriation ordinance being prepared that will come before council at a later date. Due to the current contract expiring June 30, this motion was sent up without the associated ordinance

¹ Class C felony faces up to 5 years in a state correctional institution, up to \$10,000 fine, or both.

² <https://www.courts.wa.gov/content/publicupload/eclips/2021%2003%2009%20State%20Supreme%20Courts%20Blake%20decision%20could%20be%20costly.pdf>

³ See Attachment #1

2023 Budget: Yes

Future Budget Impact: Yes

Handling: Expedite – June 15, 2023

Approved-as-to-form: n/a – state contract

Risk Management: Yes

Executive Recommendation: Approve

Attachment:

Attachment #1 – Amendment #1 – Contract with AOC re: Blake decision funding

Amendments: None

Request: Move to GLS June 14th for consideration.

INTERAGENCY REIMBURSEMENT AGREEMENT AMENDMENT 1
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
Snohomish County

THIS REIMBURSEMENT Amendment is entered into by and between the Administrative Office of the Courts (AOC) and Snohomish County, for the purpose of reimbursing for extraordinary costs that arise from the County's role in operating the state's criminal justice system including resentencing, vacating prior convictions for simple drug possession, making refunds and certifying refunds of legal financial obligations (LFOs) and collection costs under the *Blake* decision.

PURPOSE

The purpose of this Amendment is to bring the existing Interagency Reimbursement Agreement in line with the amended budget provisos in ESSB 5693; to continue to make reimbursements of costs and LFO payments; and, when appropriate, to change the amount available for reimbursements, all with the objective of assisting Counties that have reimbursed or will reimburse LFOs to defendants whose convictions or sentences in Superior Court and District Court are affected by the *State v. Blake* decision. The amount available for reimbursement is set forth below.

Additionally, Subsection b) of section 4. **TERMS OF REIMBURSEMENT** is amended to read as follows:

b) By May 1, 2023, the County agrees to report any allocated funds under either Sections 1A. or 1B. that it will be unable to spend during the term of the contract, or any additional funds it anticipates needing during the term of the contract should additional funds become available. AOC reserves the right to reallocate to other counties funds that are reported to be unable to be spent.

Finally, the Project Manager for AOC is updated.

THE AMENDMENTS

1. The Reimbursement and Period of Performance are amended to read as follows:

REIMBURSEMENT

A. Extraordinary Expenses Reimbursement. AOC shall reimburse the County AOC shall reimburse the County up to a maximum of \$3,123,400 for extraordinary judicial, clerk, and prosecution-related costs of that arise from the County's role in operating the state's criminal justice system for the resentencing, vacating prior convictions for simple drug possession and certifying refund of legal financial obligations and collections costs of defendants whose convictions or sentences are affected by the *State v. Blake*

decision incurred during the period of February 25, 2021 to June 30, 2023. No reimbursement will be made under this Agreement for resentencing or vacation costs incurred after June 30, 2023, and any reimbursement requests in excess of this amount stated in this Section 1A will be denied unless AOC has reallocated amounts as provided in Section 4(b) of this Agreement. If additional funding is appropriated by the Legislature for these purposes, the amount of reimbursement under this Agreement may be increased by agreement of the parties.

- B. LFO Reimbursement. AOC will reimburse the County up to a maximum of \$4,423,148 for payments made by the County during the period February 25, 2021 to June 30, 2023 pursuant to court order which required reimbursement by the State of Washington of legal and financial obligations previously paid by the defendant. No reimbursement will be made under this Agreement for resentencing or vacation costs incurred after June 30, 2023, and any reimbursement requests in excess of this amount stated in this Section 2B will be denied unless the amount is revised after reallocation by AOC as provided in Section 4(b). If additional funding is appropriated by the Legislature for these purposes, the amount of reimbursement under this Agreement may be increased by agreement of the parties. Nothing in this Agreement requires the County to make payments pursuant to a court order when the funds available for reimbursement are less than the amount of the payment.
- C. General. AOC shall provide reimbursement to the County for approved and completed reimbursements by warrant or account transfer within 30 days of receipt of a properly completed A-19 invoice and the completed data report as required below.
- D. The maximum combined reimbursement under this contract is the sum of the amounts specified in Subsection 1A and 1B, and subject to modification as set forth herein.

PERIOD OF PERFORMANCE

Performance under this Amendment begins **July 1, 2021**, regardless of the date of execution, and ends on **June 30, 2023**. The period of performance may be amended by mutual agreement of the parties if the Legislature provides additional funding or time for these purposes. The parties recognize and anticipate that in 2023 a centralized LFO Refund Bureau will be established to make direct reimbursements of LFO to persons entitled to refunds.

AGREEMENT MANAGEMENT

The program managers noted below are responsible for and are the contact people for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	Court Program Manager
Sharon Swanson Blake Implementation Manager PO Box 41170 Olympia, WA 98504-1170 360-704-4062 Sharon.Swanson@courts.wa.gov	Name Title Address 1 Address 2 Phone Email


ENTIRE AGREEMENT

All other provisions of the existing Interagency Reimbursement Agreement between the County and AOC that is not modified by this amendment remains in effect. This Amendment together with the Reimbursement Agreement constitutes the entire agreement of the parties.

AGREED:

Administrative Office of the Courts

Snohomish County

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 Signature Date

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 Signature Date

Christopher Stanley

 Name

Chief Financial and Management Officer

 Title

 Title